

of race, color, religion, sex, national origin, marital status, age or physical/mental handicap provided the applicant can execute a legal contract, with respect to any aspect of a credit transaction.

(3) National Historic Preservation Act of 1966. If a loan will affect any district, site, building, structure, or object that has been included in the National Register of Historic Places as maintained by the Department of Interior in accordance with the National Historic Preservation Act of 1966, or if the undertaking may affect properties having scientific, prehistorical, historical, or archaeological significance, the provisions of subpart F of part 1901 of this chapter will apply.

(b) *Other considerations.* (1) FmHA or its successor agency under Public Law 103-354 employees will not guarantee repayment of advances from other credit sources, either personally or on behalf of applicants, borrowers, or FmHA or its successor agency under Public Law 103-354.

(2) An applicant will be advised that compliance with all applicable special laws and regulations is required.

(3) An applicant must have acceptable tenure arrangements. Unless the loan approval official determines otherwise, each applicant will obtain a satisfactory written lease. A copy of the lease will be filed in the County Office case file.

[53 FR 35684, Sept. 14, 1988, as amended at 68 FR 62224, Nov. 3, 2003]

#### § 1941.24 [Reserved]

#### § 1941.25 Appraisals.

(a) Except as provided in paragraph (a)(5) of this section, real estate appraisals will be completed by an FmHA or its successor agency under Public Law 103-354 employee, or a contractor authorized to make farm appraisals. Chattel and real estate appraisals will be made on forms in accordance with § 761.7 of this title and, in the case of an appraisal of mineral rights' the appropriate Agency form (available in each Agency State Office) or other format that contains the same information, to determine market value and borrower equity in the following instances:

(1) When an initial loan is made, a chattel appraisal is required on all chattel property owned by the applicant, and on chattel property to be acquired when the item can be specifically identified.

(2) When a subsequent loan is made, a chattel appraisal is required when:

(i) Refinancing chattel debt.

(ii) The existing chattel appraisal is more than 2 years old.

(3) A real estate appraisal is not required when real estate is taken as additional security, as defined in § 1941.4 of this subpart. However, the County Supervisor will document in the running record the estimated market value of the additional security and the basis for the estimate.

(4) A real estate appraisal is required when real estate is taken as primary security, as defined in § 1941.4, and the amount of the loan to be secured by the real estate exceeds \$50,000.

(5) Other real estate appraisals completed by other State-certified general appraisers may be used providing such appraisals meet the ethics, competency, departure provisions, etc., and Sections I and II of the Uniform Standards of Professional Appraisal Practices, and contain a mineral rights appraisal as set out in paragraph (a) of this section. Prior to acceptance, the appraisal must have an acceptable desk review (technical) completed by an FmHA or its successor agency under Public Law 103-354 designated review appraiser.

(6) A new real estate appraisal is not required if the latest appraisal report available is not over 1 year old, unless the approval official requests a new appraisal, or unless significant changes in the market value of real estate have occurred in the area within the 1-year period.

(b) *Real estate appraiser qualifications.* The contractor, when he/she is not the appraiser, is responsible for substantiating the appraiser's qualifications. The contractor will obtain FmHA or its successor agency under Public Law 103-354's concurrence that the appraiser has the necessary qualifications and experience before the contractor will utilize the appraiser in any appraisal work. The contractor/appraiser

## §§ 1941.26–1941.28

completing the report must be State-certified general.

[53 FR 35684, Sept. 14, 1988, as amended at 57 FR 18676, Apr. 30, 1992; 58 FR 26680, May 5, 1993; 58 FR 48286, Sept. 15, 1993; 59 FR 16772, Apr. 8, 1994; 59 FR 25800, May 18, 1994; 64 FR 62568, Nov. 17, 1999; 69 FR 30999, June 2, 2004]

## §§ 1941.26–1941.28 [Reserved]

### § 1941.29 Relationship between FSA loans, direct and guaranteed.

(a) An eligible emergency loan (EM) applicant's total credit needs will be satisfied under the EM loan authorities, to the extent possible, before OL loan assistance is considered.

(b) A direct OL may be made to a guaranteed loan borrower provided the requirements of 7 CFR 761.8 and all other loan requirements are met.

(c) An direct OL loan may be made to refinance a guaranteed OL loan when the following conditions are met:

(1) The circumstances resulting in the need to refinance were beyond the borrower's control.

(2) Refinancing is in the best interest of the Government and the borrower.

(3) The guaranteed OL loan must be completely paid off at the time the direct OL loan is closed.

[53 FR 36240, Sept. 19, 1988, as amended at 55 FR 21527, May 25, 1990; 58 FR 44747, Aug. 25, 1993; 66 FR 7568, Jan. 24, 2001]

## §§ 1941.30–1941.31 [Reserved]

### § 1941.32 Catastrophic Risk Protection (CAT) insurance requirement.

Applicants must comply with the CAT insurance requirement no later than loan closing by either:

(1) Obtaining at least the CAT level of coverage, if available, for each crop of economic significance as defined by the Federal Crop Insurance Corporation, or,

(2) By waiving eligibility of emergency crop loss assistance in connection with the uninsured crop. FSA emergency (EM) loss loan assistance is not considered emergency crop loss assistance for the purpose of the crop insurance waiver on the uninsured crop.

[62 FR 9355, Mar. 3, 1997]

## 7 CFR Ch. XVIII (1–1–05 Edition)

### § 1941.33 Loan approval or disapproval.

(a) *Loan approval authority.* Initial and subsequent loans may be approved as authorized by subpart A of part 1901 of this chapter, provided the total direct operating loan principal balance at loan closing does not exceed \$200,000.

(b) *Loan approval action.* (1) The loan approval official must approve or disapprove applications within the deadlines set out in §1910.4 of subpart A of part 1910 of this chapter. The loan approval official is responsible for reviewing the docket to determine whether the proposed loan complies with established policies and all pertinent regulations. When reviewing the docket and before approving the loan, the loan approval official will determine that:

(i) The Agency has certified the applicant eligible,

(ii) Funds are requested for authorized purposes,

(iii) The proposed loan is based on a feasible farm operating plan.

(iv) The security is adequate,

(v) Necessary supervision is planned, and

(vi) All other pertinent requirements have been met or will be met.

(2) When approving the loan, the approval official will:

(i) Indicate on all copies of Form FmHA or its successor agency under Public Law 103-354 1940-1, "Request for Obligation of Funds," any conditions required by Agency or its successor agency under Public Law 103-354 regulations that must be met for loan closing;

(ii) Specify all security requirements;

(iii) Indicate special conditions or agreements needed with prior lienholders when appropriate;

(iv) Indicate that approval is subject to satisfactory title evidence when required, if such evidence has not been obtained; and

(v) Send a signed copy of Form FmHA or its successor agency under Public Law 103-354 1940-1 to the borrower on the date of loan approval.

(c) *Loan disapproval.* The loan approval official must approve or disapprove applications within 60 days after receiving a complete application, as set out in §1910.4 of subpart A of part 1910 of this chapter. The following